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INTENT, IMPACT AND PUBLIC POLICY
CONSEQUENCES OF INCREASED CONGRESSIONAL
CONTROL OF DEPARTMENT OF THE NAVY
BUDGET EXECUTION

by

Robert Edward Williams, Jr.

December 1988

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Intent, Impact and Public Policy Consequences of
Increased Congressional Control of
Department of the Navy Budget Execution

by

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Commander, United States Navy
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Submitted in partial fulfillment of the
requirements for the degree of

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ABSTRACT

This thesis (i) reviews constitutional and legislative foundations for congressional control and oversight over DoD, (ii) discusses methods of control and oversight, (iii) documents a trend toward increasing control and oversight, (iv) evaluates potential explanations for this trend, (v) investigates the intent of line item specification and restrictive language in authorization bills, appropriations bills, and committee reports, and (vi) examines their impact on DoN budget execution. It concentrates on DoN procurement accounts for 1980-88 and Aircraft Procurement, Navy (APN) for 1988. It concludes that (i) the intent of increased oversight and control is to ensure that the will of Congress is carried out by the Executive, (ii) congressional budgetary decisions may impede DoN budget execution efficiency and effectiveness, and (iii) the full impact of these controls did not occur in APN in 1988 because negative and unintended consequences were pointed out to Congress by DoN and the controls were partially rescinded.

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I. INTRODUCTION

This thesis investigates the intent of Congress in applying increasingly restrictive language in authorization bills, appropriations bills, and accompanying committee reports, and the consequences of these actions for the ability of the Department of the Navy (DON) to effectively and efficiently manage its limited resources.

In recent legislation Congress has mandated a number of spending floors (minimum amounts that must be spent on specific projects) and has specifically fenced funds for many DON acquisition programs. These actions severely constrain DON budget discretion. The use of spending floors in authorization and appropriations bills requires the DON to spend up to a specific level regardless of impact on program, mission, or budget. The use of fences which require that certain funds be used only for specific, individual weapons systems erodes the Navy's ability to move surplus funds from one program to another program that may be in need of additional funding. The existence of these floors and fences promotes inefficiency in the use of limited resources to achieve national defense goals.

The thesis reviews the basic constitutional and legislative foundations for the control and oversight roles of Congress in DON acquisitions. Second, it discusses the various methods by which Congress exercises its control and

oversight responsibilities. Third, the trend toward increasing control and oversight is documented. Fourth, it evaluates potential explanations for this trend, focusing on the use of spending floors, specific fences around program funds, and other constraining legislative language. It investigates the intent of including these constraints in authorization bills, appropriations bills, and committee reports. Finally, it examines the impact of constraints on the Department of the Navy's budget execution and mission accomplishment, and discusses the public policy consequences of restrictive authorization and appropriation controls.

This thesis concentrates on the changes in language in the DoN procurement accounts in the Department of Defense appropriation and authorization acts for the period 1980-1988 and the Aircraft Procurement, Navy account for budget year 1988. Control is examined from the points of view of staffs of congressional authorization and appropriation committees, the staffs of the Office of Management and Budget (OMB), the Congressional Budget Office (CBO), the Office of the Navy Comptroller (NAVCOMPT), Program Managers for various DON acquisition programs, and the comptroller in the Office of the Secretary of Defense. The interview strategy and rationale for choosing interview subjects are presented in Appendix A.

The thesis reaches the following conclusions: (i) the intent of increased oversight and control is to ensure that

the intent of Congress is carried out by the executive branch, (ii) the impact of congressional oversight and control, and the detail to which this oversight and control is exercised, appears to be counterproductive to the achievement of the ends desired by Congress, because the burden of excessive congressional management often impedes the Navy acquisition and budget execution efficiency and effectiveness, and (iii) the full impact of such negative consequences did not actually occur in the specific case of the Aircraft Procurement, Navy, in fiscal year 1988 only because the negative, unintended consequences were pointed out to the committees involved and Congress partially rescinded the controls.

II. CONSTITUTIONAL AND LEGISLATIVE FOUNDATIONS

In the Constitution of the United States the people granted to Congress the power

...to raise and support Armies...to provide and maintain a Navy...to make rules for the Government and Regulation of the land and naval Forces...[and] to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers. [They further declared that]...the executive Power shall be vested in a President of the United States of America...[and that] he shall take Care that the Laws be faithfully executed. [Ref. 1]

To carry out these duties Congress authorized programs and appropriated funds to enable the executive branch to execute those programs. Until 1921 the individual government agencies and departments submitted separate budget requests through Treasury to Congress. Treasury did not analyze or edit these requests and the President did not actively participate in the budgetary process. In the early 1900's, large budget expenditures and budget deficits provided impetus for reform. President Taft urged that

...the President should be responsible for preparing a unified executive budget. The rational was motivated by two themes: (1) economy and efficiency, and (2) strengthening democracy. A president's budget would be better able to plan government activities so that maximum economy and efficiency were achieved. A president's budget would also strengthen his power--thus citizens could vote for or against a person who had power to fulfill his promises...President Taft's reforms were largely enacted in 1921...The Budget and Accounting Act of 1921 provided for a national budget and an independent audit of government accounts. The law specifically required the president to submit a budget including estimates of expenditures, appropriations, and receipts for the ensuing fiscal year. The new

legislation created the Bureau of the Budget (BOB) in the treasury department...[it] also created a Congressional agency called the General Accounting Office (GAO) to audit independently the government accounts.[Ref. 2:p. 14]

This legislation was the first of a number of measures instituted post World War I to increase the power and effectiveness of the President in the budgetary process. The Reorganization Act of 1939 created the Executive Office of the President and transferred the BOB into that office. In 1969 the BOB was redesignated the Office of Management and Budget (OMB). All executive budget requests and recommended legislation are forwarded to OMB for review and approval. With this organization the President can more effectively ensure that the agencies and departments are following his policies.

The membership of the House of Representatives and the Senate is established by the Constitution. The specific internal organization and methods of conducting business are not established by the Constitution and have evolved significantly in the 20th century. The Legislative Reorganization Acts of 1946 and 1970 and the Congressional Budget and Impoundment Control Act of 1974 influenced the basic organization and methods of congressional budgeting.

The Legislative Reorganization Acts attempted to provide increased efficiency in the legislative branch of the government. Among other things the acts clarified the number, composition, duties and authority of standing

committees and provided a statement of the oversight role to be exercised by the committees. The committees of particular relevance to the Department of the Navy (DON) are the House and Senate Committees on Appropriations and the House and Senate Committees on Armed Services.

[To the Committees on Appropriation]...shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to...appropriation of the revenue for the support of the government.[Ref. 3:Sec. 102]

[To the Committees on Armed Services]...shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Common defense generally.
2. The War Department and the Military Establishment generally.
3. The Navy Department and the Naval Establishment generally.
4. Soldiers' and sailors' homes.
5. Pay, promotion, retirement, and other benefits and privileges of members of the armed forces.
6. Selective Service.
7. Size and composition of the Army and Navy.
8. Forts, arsenals, military reservations, and navy yards.
9. Ammunition depots.
10. Maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone.[Senate only]
11. Conservation, development, and use of naval petroleum and oil shale reserves.
12. Strategic and critical materials necessary for the common defense.
13. Scientific research and development in support of the armed services.[House only] [Ref. 3:Sec. 102]

The Legislative Reorganization Act of 1946 delineated the legislative oversight responsibilities of these standing committees. Section 136 stated

...to assist the Congress in appraising the administration of the laws and in developing such amendments or related legislation as it may deem

necessary, each standing committee of the Senate and the House of Representatives shall exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws, the subject matter of which is within the jurisdiction of such committee; and for that purpose, shall study all reports and data submitted to the Congress by the agencies in the executive branch of the Government. [Ref. 3:Sec. 136] [To this the Congressional Budget and Impoundment Control Act of 1974 added] Such committees may carry out the required analysis, appraisal, and evaluation themselves, or by contract, or may require a Government agency to do so and furnish a report thereon to the Congress. Such committees may rely on such techniques as pilot testing, analysis of costs in comparison with benefits, or provision for evaluation after a defined period of time. [Ref. 4:p. 94]

In addition, the Congressional Budget and Impoundment Control Act of 1974 added

...that it is essential--

- (1) to assure effective congressional control over the budgetary process;
- (2) to provide for the congressional determination each year of the appropriate level of Federal revenues and expenditures;
- (3) to provide a system of impoundment control;
- (4) to establish national budget priorities; and
- (5) to provide for the furnishing of information by the executive branch in a manner that will assist the Congress in discharging its duties. [Ref. 4:p. 62]

The 1974 Act modified the congressional budget process to provide congressional control over the impoundment of funds by the executive branch, and established the Congressional Budget Office and Committees on the Budget in each House.

Two recently established committees have taken an active role in providing oversight over national security and defense programs. The Committee of Government Affairs in the Senate and the Committee of Government Operations in the

House have, among other duties, the "duty of...studying the efficiency, economy, and effectiveness of all agencies and departments of the Government...."[Ref. 4: p.23] These committees have interpreted this as giving them sweeping oversight authority.

Congressional micromanagement, detailed decision making on issues of executive administrative discretion, of the defense budget by the committees of Congress noted above is significant in volume and degree. Other committees, such as those on Intelligence, also play a role in dictating conditions for DoD budget execution. This thesis concentrates on controls implemented in the budget process, although much micromanagement also takes place independent of the budget as well.

III. METHODS OF EXERCISING CONGRESSIONAL CONTROL AND OVERSIGHT

A. CONTROL

The primary methods by which Congress exercises budgetary control over DoD and DoN procurement are through appropriation and authorization acts, general legislation, committee reports, and colloquia. These methods form a spectrum of control from the most binding to the least binding on DoD budget execution.

1. Appropriation Bills

An appropriation is an act of Congress that permits federal agencies to incur obligations and to make payments out of the Treasury for specified purposes. An appropriation act is a statute that provides funds for federal programs. An appropriation act generally follows enactment of authorizing legislation unless the authorizing legislation itself provides the budget authority. [Ref. 5: p.440]

Appropriations for DON procurement are contained in the annual Department of Defense Appropriations Acts.

2. Authorization Acts

An authorization act is substantive legislation enacted by Congress that sets up or continues legal operation of a federal program or agency either indefinitely or for a specific period of time or sanctions a particular type of obligation or expenditure within a program. Authorizing legislation is usually a prerequisite for subsequent appropriations or other kinds of budget authority to be contained in appropriation acts. Such legislation may limit the amount of budget authority to be provided subsequently or may authorize the appropriation of "such sums as may be necessary." [Ref. 5: p.440]

Authorization for DOD budget execution and procurement is contained in the annual National Defense Authorization Acts.

3. General Legislation

Whereas the authorization and appropriation bills control what is procured by DoD and how much can be spent, Congress has also enacted a series of laws to control acquisitions. Examples of these laws are the Armed Services Procurement Act of 1947 (with subsequent revisions), the Contract Disputes Act of 1978, and the Competition in Contracting Act of 1984. In 1974 The Office of Federal Procurement Policy Act "...established the Office of Federal Procurement Policy (OFPP) within the Office of Management and Budget to improve the economy, efficiency, and effectiveness of the procurement processes by providing overall direction of procurement policies, regulations, procedures, and forms." [Ref. 6:p. 90] Subject to prior consultation with the Committees of Government Operations in the House and Senate [Ref. 7] the OFPP issues Federal Acquisition Regulations (FARS). These acts and FARS influence budget execution significantly, but the focus of this thesis is on general budgeting rather than specific procurement controls.

4. Committee Reports

When a standing committee of either House of Congress submits a bill to the floor it also provides a

report indicating, among other things, the background of the bill, an explanation of the provisions in the bill, special concerns of the committee (including dissenting opinions), requests for reports and data from executive agencies, and a detailed breakdown of programs and funding accounts. Although these committee reports do not have the force of law [Ref. 8], they do express the intent of the standing committees; the executive is expected to adhere to the provisions of the reports. Complications often arise because bills may be accompanied by conflicting reports: one from the standing committee in the House, a second from the standing committee in the Senate, and a third from the joint House and Senate conference committee. The conference committee report usually carries the most weight. To further complicate control, approved programs must be funded by the appropriations committees. Consequently, there are six often conflicting reports that require DoD compliance.

5. Colloquia

A colloquium is a prearranged or staged discussion in a public congressional forum. By engaging in a colloquium, interested members go on record as having made certain statements that can be quoted latter when needed to strengthen an argument, request or demand regarding congressional intent. [Ref. 9]

B. OVERSIGHT

Oversight is exercised in several ways. First, and perhaps foremost, Congress studies "...all reports and data submitted to the Congress by the agencies in the executive branch of the Government." [Ref. 3:Sec 136] Various acts, including the annual authorization and appropriation acts, mandate the submission of a host of reports. These run the spectrum from pre-spending reports which must be submitted prior to the commencement of programs or program milestones in support of congressional ex-ante controls to post-spending status reports which support congressional ex-post controls.

Congress also has the power to "carry out the required analysis, appraisal, and evaluation themselves, or by contract, or may require a Government Agency to do so and furnish a report thereon to the Congress [Ref. 4:p. 94]." To this end, committee staff members, the Congressional Budget Office, the General Accounting Office, Inspectors General Office, and other audit agencies perform independent investigations to assure the accountability desired by members of Congress. On site investigations by members of Congress and their investigative teams are commonplace for DoD.

Standing committees also are empowered to require the appearance of any person to present testimony before them on items within the committees' jurisdiction.

C. BUDGET REPROGRAMMING--CONTROL AND OVERSIGHT

Once funds have been appropriated to an account or a statutory subdivision of an account, the executive cannot use those funds for any other account or spend less than the appropriated amount for that account without subsequent congressional approval. Movements of funds from one account to another are called transfers. To transfer funds between accounts DoD must either have been given statutory transfer authority in the appropriation bill or obtain congressional approval for the specific transfer. [Ref. 10:p. 6-11] In general, the executive cannot spend less than the appropriated amount for that account unless Congress approves a rescission request or reprograms funds. [Ref. 4:p. 99]

The movement of funds between programs within an account is called reprogramming. Non-statutory agreements among the appropriations committees, authorization committees, and executive departments and agencies govern the movement of funds within accounts. Under these agreements some reprogramming actions require prior approval of congressional committees while others simply require that committees be given timely notification. [Ref. 10:p. 6-11] Transfer and reprogramming rules provide congressional control over most DoD transfers and reprogramming actions, and attempt to enable effective oversight.

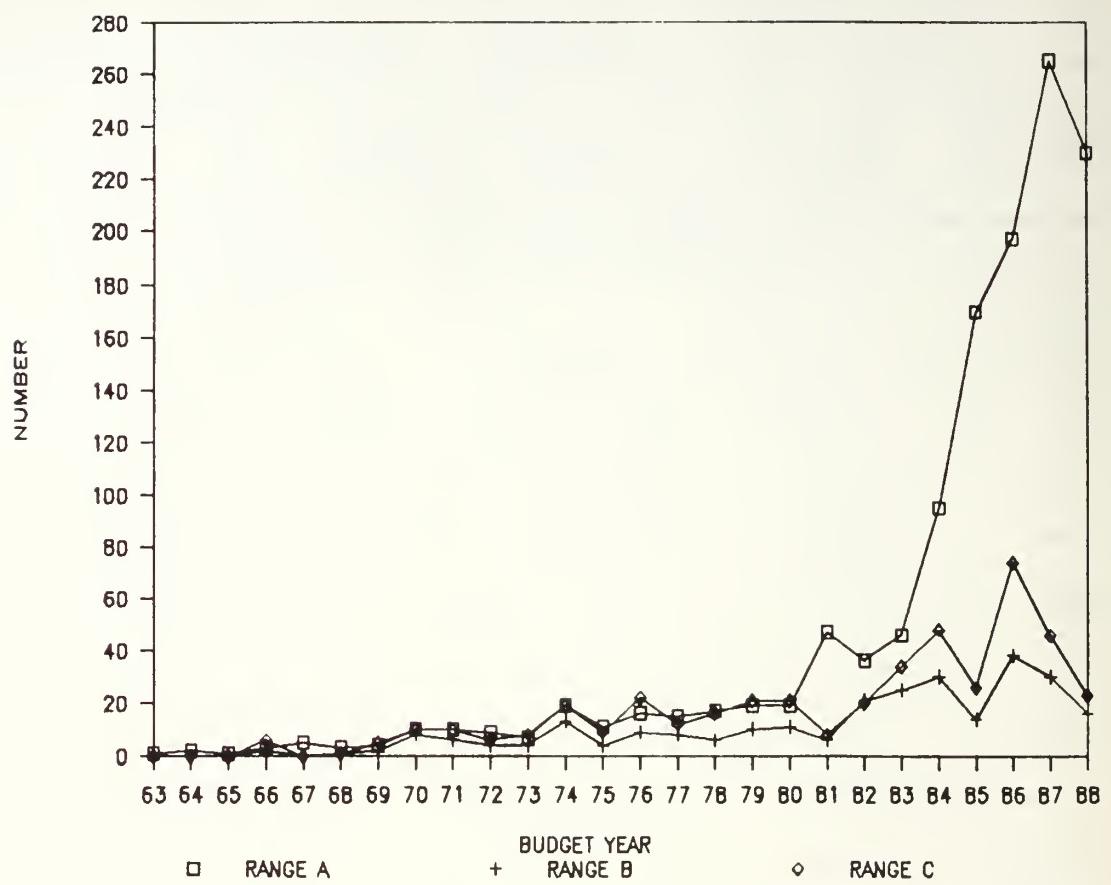
The controls noted above are used to influence DoD and DoN budget execution to conform to the will of Congress. The President proposes the Budget, but Congress enacts it, holding the executive accountable for execution in conformance with congressional program and spending preferences. Evidence indicates that congressional control of executive budgeting has become increasingly restrictive in the past decade.

IV. THE TREND TOWARD INCREASED CONTROL AND OVERSIGHT

A trend toward increased congressional budgetary oversight and control and a shift toward increased use of statutory language to effect oversight and control is documented in this chapter. The trend may be demonstrated by examining the length and content of authorization and appropriation bills for defense over time. Figures 1 and 2 show the increasing trend in the number of pages in the bills, the number of pages of general provisions, and the numbers of general provisions included as statutory law [Ref. 11]. Much control that formerly was included only in the non-statutory committee reports is now written into the language of the actual bills.

An examination of the procurement accounts for the three services in appropriations bills reveals two interesting developments. First, the four Navy procurement accounts (Aircraft Procurement, Navy, Weapons Procurement, Navy, Shipbuilding and Conversion, Navy, and Other Procurement, Navy), which previously, at least since the late 1950's, had been authorized and funded as lump sums, began to be subdivided into line items. In 1973, the Shipbuilding and Conversion, Navy (SCN) account included two specific programs by line item. By 1985 this list grew to 20 programs. In 1983, the Weapons Procurement, Navy (WPN) account mentioned 15 specific programs by line item. In the

CONTENTS OF AUTHORIZATION ACTS



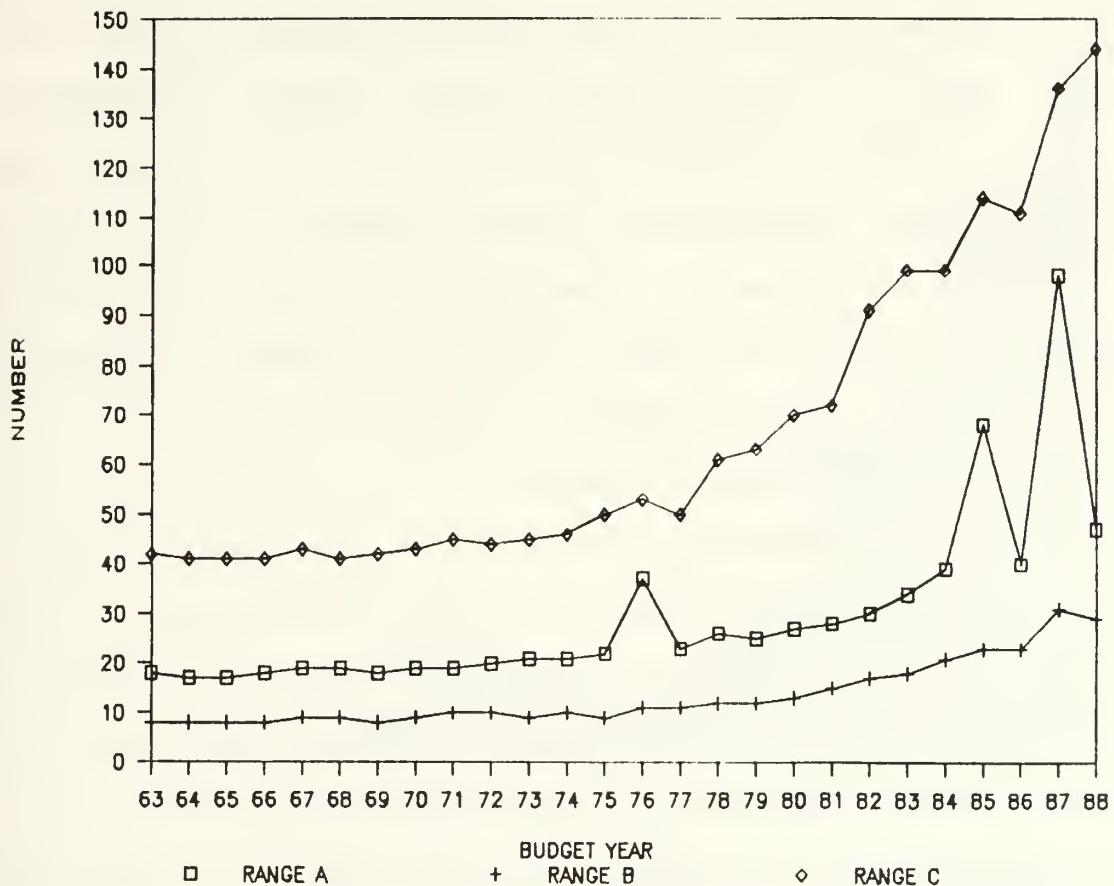
Range A: Number of pages in the authorization act

Range B: Number of pages of general provision in the act

Range C: Number of general provisions

Figure 1. Contents of Authorization Acts

CONTENTS OF APPROPRIATIONS ACTS



Range A: Number of pages in the appropriations act

Range B: Number of pages of general provision in the act

Range C: Number of general provisions

Figure 2. Contents of Appropriations Acts

same year the Other Procurement, Navy (OPN) account was divided into seven categories by line item. In the ensuing years the WPN account has been subdivided into as many as 40 line items. In 1988, the aircraft account contained 16 tightly fenced programs within the overall procurement account. This increase of line item specificity is displayed in Figure 3. The second observation is that this line item specificity does not exist in the procurement accounts for the Army or the Air Force. In 1988, the Navy was again singled out for tighter control.

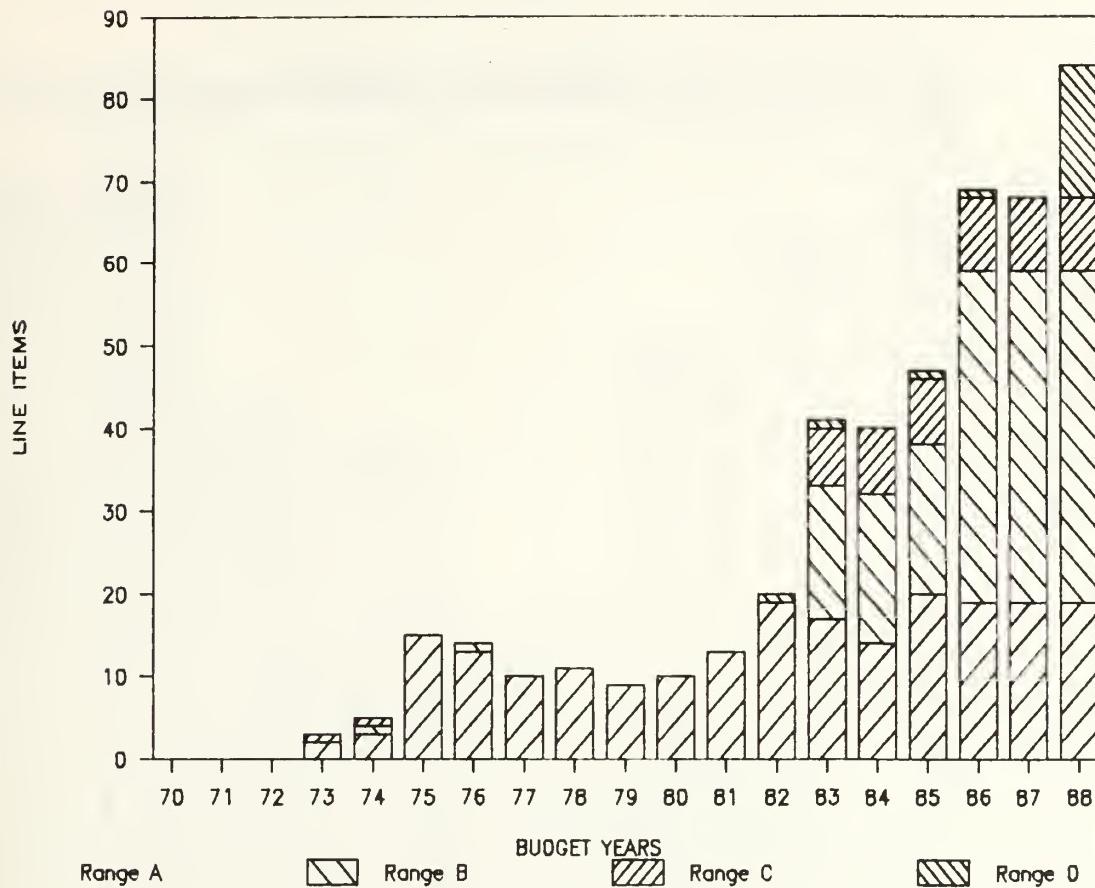
Another congressional control indicator is the number of reports required by Congress from DoD as presented in Figure 4 [Ref. 12:p. 61]. The increasing number of reports are evidence of tighter ex-ante control and ex-post oversight.

A final indicator of congressional control is the increased number of detailed changes made to specific budget items in the DoD portion of the President's Budget Request, as presented in Figure 5 [Ref. 12:p.61].

Changes in the procurement accounts for the Navy demonstrate a shift from nonstatutory control methods, such as colloquia and committee reports, to statutory control methods of authorization and appropriation language and line program identification and funding.

The data presented in this chapter indicate the increase in congressional budget control over DoN execution and the

ACCOUNTS AND LINE ITEM SUBDIVISIONS



Range A: Number of individual line items in SCN

Range B: Number of individual line items in WPN

Range C: Number of individual line items in OPN

Range D: Number of individual line items in APN

Figure 3. Accounts and Line Item Subdivisions

REPORTS REQUESTED BY CONGRESS FROM DOD

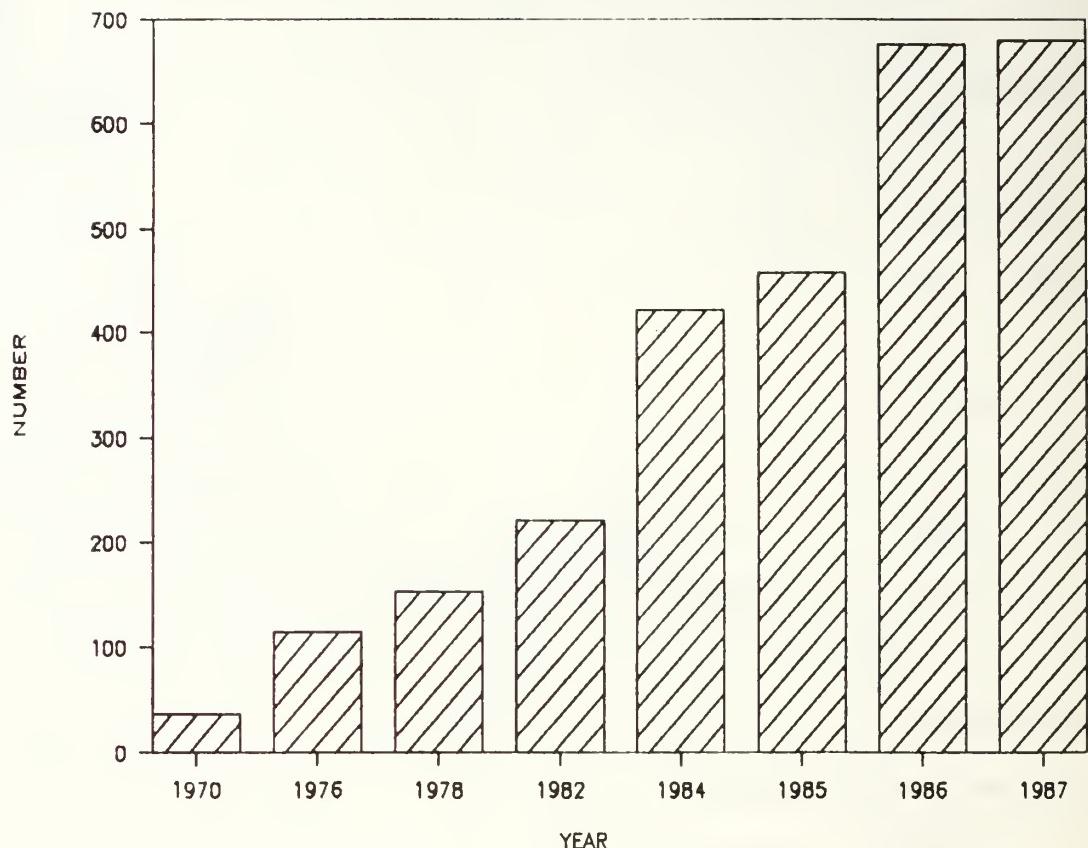


Figure 4. Reports Requested by Congress from DoD

LINE ITEM ADJUSTMENTS TO DOD BUDGET

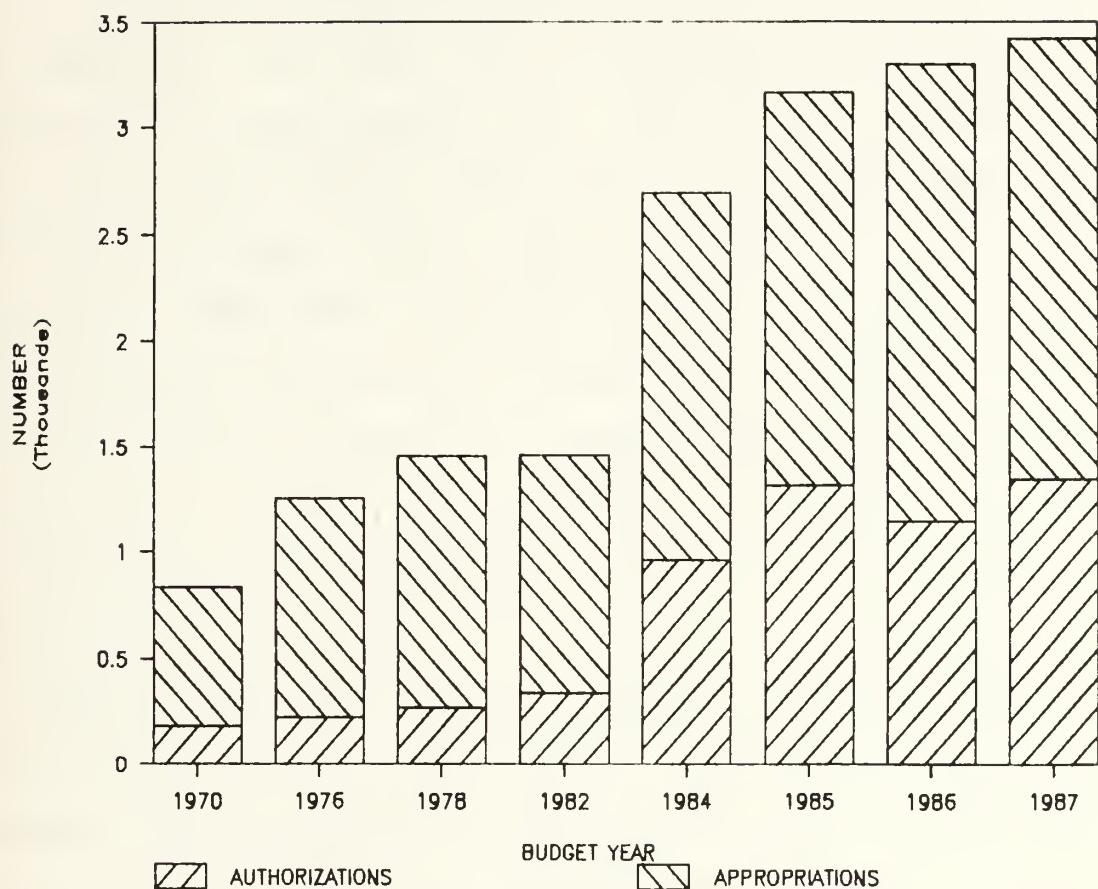


Figure 5. Line Item Adjustments to DoD Budget

forms it has taken. The next chapter attempts to explain why congressional control has increased in the past decade.

V. FACTORS TO EXPLAIN INCREASED CONGRESSIONAL CONTROL AND OVERSIGHT

To identify factors to explain the increased control and oversight interviews were conducted with staffs of congressional authorization and appropriation committees, the staffs of the Office of Management and Budget (OMB), the Congressional Budget Office (CBO), the Office of the Navy Comptroller (NAVCOMPT), Program Managers and comptrollers for various DON acquisition programs, and the comptroller in the Office of the Secretary of Defense. The interviews were structured as shown in Appendix A. Numerous, less structured, follow up telephone calls were also made to these and other officials.

Interviewees were asked to explain the congressional control trend over the last decade, specifically the use of spending floors, specific fences around program funds, and other tightly constrained legislative language. Their responses can be distilled into the following set of factors to explain the increase in control.

A. Partisan politics within Congress and between Congress and the Executive.

B. Congressional budgetary politics and processes:

1. Reduced power of committee chairmen and increased relative power of committee members, subcommittee chairmen, subcommittee members, and non-committee members;

2. Power struggles between standing committees in both Houses;

3. Pork barrel political pressures;

4. Increased public exposure for members of Congress;

5. Increased size of congressional committee staffs.

C. Executive accountability:

1. Refusal by high level DoD and DoN officials to negotiate or prioritize programs in the DoD budget request;

2. Loss of congressional confidence in DoD and DoN leadership ability;

3. Failure of DoN to comply with the spirit and intent of report language;

4. Ineffective DoD and DoN budget and program execution.

D. Budget growth and control:

1. The significant size of the increment in the defense budget proposed by the President in the 1980's;

2. Pressure to reduce the growing deficit.

Each of these factors is elaborated in this chapter. This analysis is augmented by the views of defense budget policy critics in addition to those interviewed specifically for this thesis.

A. PARTISAN POLITICS WITHIN CONGRESS AND BETWEEN CONGRESS AND THE EXECUTIVE

Partisan politics appears to be a factor explaining some degree of increased congressional control over DoD in cases

where the majority party in one house is different from that in the other, or where the party of the executive is different from that of the legislature as a whole. Partisan politics is a reflection of differing political ideologies. If the Congress and the executive have opposing ideologies, Congress finds it necessary to spell out in great detail what it is that it wants the executive to execute, because congressional budget priorities differ from those of the President. Further, even though the will and intent of Congress may have been articulated through committee reports and colloquia, Congress may find it necessary to include detailed language in authorization and appropriation bills to ensure that the executive complies and is accountable for deviation from congressional intent.

B. CONGRESSIONAL BUDGETARY POLITICS AND PROCESSES

1. Reduced power of committee chairmen and increased relative power of committee members, subcommittee chairmen, subcommittee members, and non-committee members

"During the early 1970's...power was dispersed from committee chairs (no longer guaranteed by seniority) to a proliferation of subcommittees (all committees had to have them) and new staff." [Ref. 5:p. 192] This erosion of the power of Congressional leadership and committee chairman has given junior congressmen the opportunity to exercise greater influence, an opportunity they have seized aggressively, particularly in the House. As each member seeks to make his

mark, he delves further into the details of programs and budgets. Erosion of congressional leadership has also led to an explosion of floor debate in both the House and the Senate.

Between 1970 and 1979 the House debated an average of 20 amendments to the defense authorization bill each year and the Senate debated 24 amendments...In 1986 alone the House debated 116 amendments and the Senate debated 83. In practical terms, this meant that representatives debated nearly 12 amendments each day the FY 1987 authorization was on the floor of the House and senators debated 11. Moreover, because most amendments do not pass first through the committee process, often the only legislative scrutiny they receive comes during the brief time they are considered on the floor. [Ref. 12:p. 60]

This situation is exacerbated when last minute compromises are made on the floor in the rush to pass continuing resolutions or omnibus appropriations bills.

2. Power struggles between standing committees in both Houses

Power struggles between standing committees, not only between the houses, but, also within each house, appear to contribute to the increased oversight and control exerted by each of the committees involved. The major players in DoD procurement are the Appropriations, Budget, and Armed Services Committees of both houses, the Government Operations Committee in the House and the Government Affairs Committee in the Senate. Non-defense committees have become increasingly involved in defense matters. "Currently, 10 committees in the Senate and 11 in the House have standing jurisdiction over some aspect of defense policy." [Ref.

12:p. 60] The fiercest competition is between the authorizing and appropriating committees. "A spreading overlap between the committees responsible for authorizing and appropriating defense funds has only exacerbated the budgetary chaos of Capitol Hill: The Armed Services Committees mark up the defense request at the appropriators' level of line-item detail, while the Defense Appropriations Subcommittees appropriate funds that were never authorized." [Ref. 13:p. 2303] Not only do the authorizers and appropriators compete, but the House Governmental Operations Committee and the Senate Governmental Affairs Committee have increased their scrutiny of defense affairs due to a perception that the authorizing committees are not tough enough in their scrutiny of defense affairs [Ref. 14:p. 21]. In turn, this challenge to their competence encourages the authorizers to redouble their efforts.

3. Pork barrel political pressures

This brings up the issue of pork, a rather negative term for forces central to our democratic form of government. Pork barrel refers to government appropriations for political patronage, such as those for local improvements to please legislators' constituents. Pork is the money, jobs, etc., received through pork barrel appropriations. A primary concern for congressmen is reelection. To be reelected they must attempt to give their constituents what they want, from the construction or

maintenance of military bases in their districts to the granting of defense contracts to businesses in their districts. To ensure that these benefits accrue to their districts it may be necessary to resort to very specific statutory language rather than leaving budget execution decisions to the service departments.

4. Increased public exposure for members of Congress

Increased public exposure for members of Congress, in part resulting from greater media exposure, has challenged them to become expert on more topics, to become more expert on specific topics, and to create more impact for constituents back home. This pressure may lead members of Congress to dig more deeply into programs and budgets to find items of sensational value, and then to create fixes for these problems to demonstrate leadership and ability to force DoD to be more efficient.

5. Increased size of congressional committee staffs

The increased size of congressional staffs may have contributed to the increased level of both oversight and control. Augmentation of staffs may be viewed as only a response by Congress to provide the means for dealing with the demands presented by the other issues listed above. The same could be said for the creation of the Congressional Budget Office in 1974 to provide information which will assist committees in the discharge of their duties [Ref. 4:p. 69]. It also may be argued that these organizations,

once established, gain incentives of their own to control DoD budget execution. Staff expertise in analyzing defense issues has grown over time and has become a resource for application by members to satisfy a variety of purposes.

C. EXECUTIVE ACCOUNTABILITY

1. Refusal by high level DoD and DoN officials to negotiate or prioritize programs in the DoD budget request

Refusal by high level DoD and DoN officials, specifically Casper Weinberger (SECDEF) and John Lehman (SECNAV), to negotiate or prioritize items in the DoD budget request, especially in the mid 1980's, forced the appropriate standing committees in Congress to analyze the DoD budget request more closely, develop independent means to gather information on DoD plans, programs, and policy, demand more reports and testimony from subordinate officials in DoD, and, finally, to spell out in excruciating detail in statutory law its directions to DoD.

2. Loss of congressional confidence in DoD and DoN leadership ability

A loss of confidence in DoD and DoN leadership ability by Congress may have created a vacuum which Congressmen rushed to fill. Loss of credibility resulted from a perception that program sponsors and program managers either did not know their programs well or were intentionally misrepresenting them to gain budgetary advantage. Further, some congressional staff members

indicated that senior DoD and DoN officials were unable to effectively plan and execute the overall acquisition program. Given this perception, it followed that Congress should step in to provide management assistance.

3. Failure of DoN to comply with the spirit and intent of report language

Failure of DoN to comply with the spirit and intent of committee report language in some instances may have caused Congress to include more report language in the actual bills. This theme was voiced not only by congressional staff members and officials at CBO, but also acknowledged by members of the executive. The three service departments are described by some congressional staff as the three D's: Dumb, Defiant, and Devious. The DoN is characterized as a defiant budget adversary. [Ref. 15]

4. Ineffective DoD and DoN budget and program execution

Ineffective program management and sponsorship, contributed to in part by the turnover of military personnel, was cited by congressional committee staff members as a cause of increased control. Some members of Congress and their staffs see themselves as the only continuity in some of the programs and take it upon themselves to more closely manage these programs. Such management takes the form of tightly constrained funding language, additional reports required, more on site investigative presence, and detailed program and policy

guidance written into in appropriation and authorization reports.

D. BUDGET GROWTH AND CONTROL

1. The significant size of the increment in the defense budget proposed by the President in the 1980's

The size of the budget increment proposed for defense by the Reagan administration in the early 1980's was confronted in one way or another by most members of Congress. It became more important for many to scrutinize the DoD budget, if for no other reason than to ensure that constituents received their fair share of increased budget authority and spending. Also, congressional concern for efficiency and effectiveness in a such a rapid increase of defense capability may have caused increased congressional control.

2. Pressure to reduce the growing deficit

Pressure to reduce the growing deficit and the threat of GRH sequestration forced Congress to address the difficult issue of deciding where to allocate the increasingly scarce funds. The desire to make the right decisions and preserve favorite programs lead to an aggressive search for information. Information is power. And with this information the committees analyze budget requests more thoroughly to make decisions at a more detailed level. Having made these decisions, over OSD and DoN objections, it

becomes important to include language to compel adherence to the authorization and appropriation legislation.

It is difficult to isolate and weight the factors that have led to increased congressional control of DoD and DoN with great precision. Most of the factors mentioned appear to have contributed in some measure to the need perceived by Congress to increase the amount and types of budget control. The next chapter attempts to evaluate some of the effects of increased controls on DoN efficiency and effectiveness.

VI. CONGRESSIONAL INTENT, DON IMPACT AND PUBLIC POLICY CONSEQUENCES

The intent of some proportion of the increased congressional control and oversight is to ensure that the will of Congress is carried out by the executive branch. This is in keeping with the democratic foundations of our form of government and the constitutional role for Congress explained in chapter II. The impact of control and the detail to which it is exercised may be counterproductive to the achievement of the ends desired by Congress. The burden of excessive congressional management inevitably impedes to some extent the executive in delivering the desired products efficiently and effectively. However, congressional control may in some instances improve DoD products and increase DoD effectiveness.

In light of the longer trend toward increasing control, and given the specific, proposed increases in control being considered by the Armed Services and Appropriations Committees for the 1988 bills, Deputy Secretary of Defense, William H Taft, IV, wrote a series of letters to the chairmen of these committees to argue against the proposed increases in control and in favor of increased DoD management flexibility. He claimed that the degree and types of control proposed would seriously reduce the ability of DoD to efficiently and effectively perform its duties. The

Secretary's arguments are summarized below and the text of portions of his letters is included in Appendix B.

Taft explained that proposed reprogramming restrictions would increase the "administrative burden on both Congress and the DoD...hamper efficient program management, and prevent quick response to ever changing program requirements, thereby causing program delays and increased costs." [Ref. 16:p. 9] He also explained that the proposed use of line item authorization and sub-divided appropriations "would result in numerous formal reprogramming actions, impede timely program execution, generate increased workload for DoD and congressional staffs, and impair the Department's ability to respond to crisis situations." [Ref. 16:Encl. 1, p. 2]

Several of the restrictive provisions cited by the Secretary found their way into the Department of Defense Appropriation Act for FY 1988 and the National Defense Authorization Act for FY 1988-1989. This leads to the question of whether inefficiencies and ineffectiveness predicted by the Secretary actually occurred during the execution of the budget during fiscal year 1988? Did Congress actually get what they asked for in the most efficient manner? In the next chapter the thesis analyzes Aircraft Procurement, Navy provisions in the authorization and appropriation bills for 1988 in an attempt to answer these questions.

VII. CONGRESSIONAL CONTROL OVER FISCAL YEAR 1988

AIRCRAFT PROCUREMENT, NAVY

In both the Department of Defense Appropriation Act for 1988 and the National Defense Authorization Act for Fiscal Years 1988 and 1989, Congress significantly increased the detail and restrictiveness of language in the Aircraft Procurement, Navy (APN) account. This chapter documents the change in language and format of the applicable sections of the acts and explains how that change increases control. Second, it explains the intent of Congress in this particular case of increased control. Third, it attempts to determine which of the factors for increasing control articulated in Chapter V appear to have been applicable in the FY 1988 APN case. Fourth, the impact of the increased control on the ability of the DoN to effectively and efficiently execute the aircraft acquisition programs is assessed.

A. EXPLANATION OF INCREASED CONTROLS IN THE FY 1988 APN ACCOUNT

For at least the past 20 years the APN authorization and appropriation bill language stated the account amount as a single lump sum. In both the National Defense Authorization Act for Fiscal Years 1988 and 1989 and the Department of Defense Appropriation Bill for 1988, this account was modified to show sixteen individual programs by line item.

The format and language were initiated by the House Armed Services Committee. The text of applicable sections of these two bills is presented in Appendix C.

Specification of funding for particular aircraft programs as a statutory subdivisions of the appropriation account prevents the DOD from transferring any funds from that aircraft program to another aircraft program without first obtaining congressional approval, or exercising the limited statutory transfer granted in section 8015 of the Appropriations Act. However, even the statutory transfer authority granted in section 8015 of the Appropriations Act could not be exercised for these programs because of the specific "only for" language written into the law. Further, all of the funds appropriated for a program must be spent on that program unless Congress approves a rescission request submitted by the President. The amounts specified in FY 1988 for each program and the method of specification created de facto spending ceilings and floors.

B. INTENT OF THE LINE ITEM FORMAT

The intent of the line item format as explained by congressional staff [Ref. 17] and certain officials within the Navy [Ref. 18] was to ensure that the DoN did not short change these particular programs by transferring or reprogramming funds out of them into other programs or other procurement accounts.

C. REASONS FOR EXERCISING INCREASED CONTROL FOR APN IN FY

1988

A number of factors have been proposed in this thesis to explain increased control being exercised by Congress. Each of these is examined below to determine which most accurately explain the reasons for the increased control and oversight afforded by the change in format in the APN account for 1988. It is argued that the main reasons explaining why Congress chose to exercise greater control over the APN procurement account are (i) failure of DoD and DoN to comply with the spirit and intent of report language, (ii) the requirement to enforce the difficult spending decisions dictated by public pressure to reduce the deficit and the threat of GRH sequestration, and (iii) the belief by congressional staff that NAVCOMPT was exerting undue influence over the procurement policies in the DoN, at the expense of procurement program sponsors and program managers.

1. Background

When the Reagan administration assumed office in 1981, John Lehman, the newly appointed Secretary of the Navy, presented the blueprint for the 600 ship Navy. This blue print included 15 deployable carrier battle groups and 14 active and 2 inactive airwings. To enhance the strike capability of Navy carrier airwings he proposed a new airwing configuration consisting, in part, of 20 F/A-18 dual

purpose aircraft and 20 A-6 strike aircraft. Such a plan required significant investment in procurement of both ships and aircraft. The plan emphasized shipbuilding during the earlier years and then began the increase of funding for aircraft as the shipbuilding funding stream ramped down. The success of the plan rested heavily on continued real growth of the defense budget. [Ref. 17]

The expectation of increased funding in the out years for all DoD procurement plans was set out in DoD planning, programming, and budgeting. Figure 6 shows these programmed acquisitions [Ref. 19]. When the President submits his budget request to Congress the budget request typically includes estimates for the upcoming fiscal year and the next four out-years. Figure 6 shows the estimates for DoD procurement as presented in the budget requests for fiscal years 1983 through 1989, as well as the actual amounts appropriated for budget fiscal years 1982 through 1988. The projected increases in the out-years were not approved. However, DoD programming and planning continued to assume that increased out-year funding would be appropriated by Congress. In fact, until the formulation of the 1990-91 budget request, DoD planning and programming continued to reflect what Congress viewed as unrealistic funding in the out-years. It might be argued that the budget estimates in the President's budget request were not the actual numbers on which DoD was actually basing its acquisition strategy,

DOD PROCUREMENT, ESTIMATES AND ACTUAL

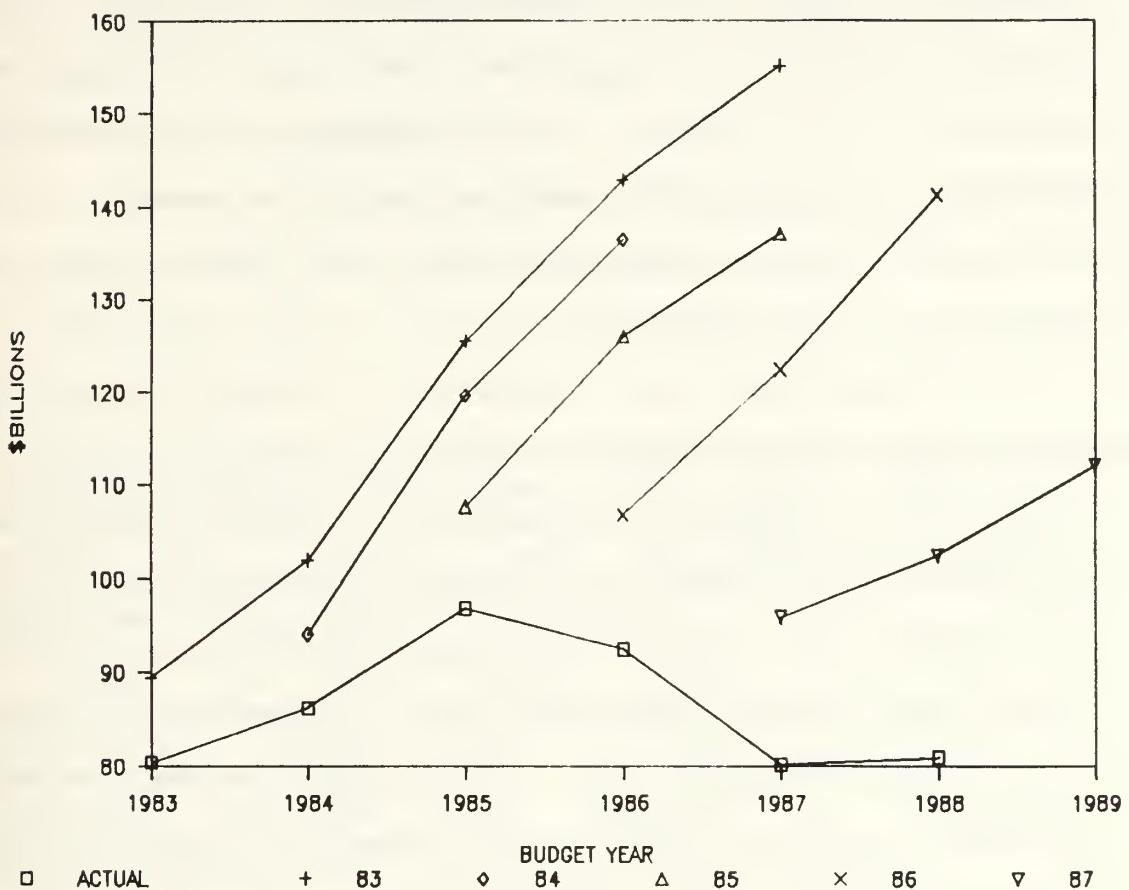


Figure 6. DoD Procurement, Estimates and Actual

rather they were simply part of a budgetary ploy to justify higher appropriations for defense. However, the estimates were derived from the Five Year Defense Plan (FYDP), the central planning document for DoD acquisitions. Consequently, from the perspective of Congress, DoD's persistent assumption of increased out year funding in DoD programming and planning was leading to an overall acquisition strategy that was impossible to execute given the limited funding that Congress was most likely to appropriate in the out years.

Congressional and executive concern over the mounting budget deficit in FY 1985 and subsequently and loss of Presidential political leverage in Congress halted the real growth of the defense budget and resulted in relatively flat budgets in real dollar terms beginning in 1986. However, DoN shipbuilding funding did not taper off in 1986-88. In fact, new starts of carriers and destroyers were accelerated. Although shipbuilding requires relatively low outlays initially, the outlays in the out years increase rapidly. The Navy's decision to pursue the shipbuilding in the face of flat budgets effectively doomed the 16 proposed airwings. The budget request for 1986 included \$12.3 billion for 320 aircraft. Testimony presented by the DoN called for increasing aircraft procurement to about 380 aircraft per year to maintain the required quantity, age, and quality of aircraft to support the 16 proposed airwings. [Ref. 17]

In light of the budget realities, however, the procurement plans submitted in the following years included less than 300 aircraft in 1987, 1988, and 1989, and less than 200 by 1990.[Ref. 17] Buying fewer aircraft not only could cause a degradation in the combat capability of the airwings, but would result in higher unit costs due to less than efficient production rates.

The House Armed Services Committee expressed the following concerns over the condition of naval aviation in its committee report accompanying the 1988 authorization bill to the floor:

Navy testimony indicated that the 15 deployable aircraft carriers have been fully funded, are under construction and that adequate numbers of combat aircraft are available to meet the airwing requirements for the 15 aircraft carriers. However, the committee is concerned about several issues that are apparent in the fiscal year 1988 Defense budget request.

First, the mix of combat aircraft within the 15 deployable airwings is not adequate and, according to a Congressional Budget Office analysis, shortfalls of aircraft are apparent in the medium attack and electronic warfare roles. Because no reasonable substitutes for these aircraft exist, carrier airwing capabilities will not satisfy Navy requirements.

Second, the overall age of Navy aircraft continues to increase because the Navy is not buying sufficient aircraft to reduce average ages to acceptable levels. Although the average age for fighter and attack aircraft is decreasing, this is due solely to the procurement of F/A-18 aircraft at rates sufficient to offset the increasing age of the other fighter and attack aircraft that are being retained.

Third, the committee is seriously concerned with the inconsistency in the budget in the form of drastic reductions to aircraft modifications. Navy testimony indicated that although the aircraft average age is increasing, acceptable options exist. For example, the alternative to replacing older aircraft with new aircraft is to restore, extend or improve the capability of existing aircraft through modification programs.

However, the budget request would have aged the inventory and, at the same time, reduced aircraft modifications by more than one-half from last year's level. This is not an acceptable strategy and can not be supported.

As such, the Navy must strike an executable balance between procurement of new aircraft and modification of existing aircraft. Future procurement efforts should be directed toward providing a proper mix of combat aircraft for the 15 deployable airwings.[Ref. 20:p. 14]

Similar concern was expressed by the Senate Armed Services Committee in the report accompanying its proposed 1988 authorization bill to the floor of the Senate:

While the Navy decided to accelerate the procurement of aircraft carriers, it chose to stretch out the procurement of combat aircraft...A third of all the combat aircraft in last year's Five Year Defense Plan were removed from the budget at the same time that the size of the fleet is expanding. These specific stretch outs will result in an older fleet [of aircraft].[Ref. 21:p. 10]

The House Appropriation Committee expressed the following view about the naval aviation procurement strategy in its report accompanying the 1988 appropriation bill to the floor of the House:

The Committee, in the past, has raised its concern over the Navy's large number of different aircraft production lines, particularly when the procurement of aircraft at less-than efficient production rates results in higher unit costs.[Ref. 22:p. 143]

In addition to these factors, it appeared to professional staff on the House Armed Services Committee that the DoD and DoN were systematically reprogramming funds out of the APN account to fund programs in other accounts, such as submarine programs, shipbuilding, CHAMPUS, and overseas station allowances. Table 1 list details the net

transfer of funds out of the APN funds appropriated in each of the budget years [Ref. 23]:

TABLE 1

1980	112.6 M
1981	0.0 M
1982	96.1 M
1983	253.6 M
1984	98.8 M
1985	724.4 M
1986	12.0 M
1987	33.0 M

It is important to remember that the APN funds appropriated in 1985 are available for obligation, transfer, or reprogramming for three years. The actual transfers could have taken place in 1985, 1986, or 1987, the year during which the 1988 authorization and appropriation bills were being considered by Congress. The \$724.4 million transferred out of APN for 1985 represented about 7% of the APN account. It was within this environment of perceived neglect of APN in Navy priorities that the appropriation and authorization bills were drafted and enacted by Congress.

2. Evaluation of DoN budget actions relative to proposed factors explaining increased control

a. Partisan politics within Congress and between Congress and the Executive

Partisan politics did not appear to be a factor in the increased congressional control over the APN account, nor was it mentioned as such during the interviews conducted by the author. This does not rule out partisan effects. However, interviewees in Congress and DoN did not place emphasis on this factor to explain why APN was more constrained in FY 1988.

b. Congressional budgetary politics and processes

(1) Reduced power of committee chairmen and increased relative power of committee members, subcommittee chairmen, subcommittee members, and non-members. No evidence was found to support this hypothesis in the specific case of the increased control exercised in the APN account. The additional specification within the APN account was written by committee staff and approved by the committee chairmen.

(2) Power struggles between standing committees in both Houses. Power struggles between the Armed Services Committees and the Appropriations Committees of both houses are an ongoing phenomena. Senate Armed Services Committee staff stated that anticipated differences between the authorizers and appropriators over A-6F funding added impetus to the line item format of the authorization bill.

Indeed, the appropriation bill as passed by both houses illustrates this conflict. It stated, "That notwithstanding section 111(e) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) \$609,917,000 is available for the procurement of 12 A-6F aircraft." [Ref. 24] This language indicates the perceived need for the authorizing committee to control the actions of the appropriations committee through bill language.

(3) Pork barrel political pressures. Little evidence to support this as a causal factor in the case of the controls in the APN account was found. In fact, several interviewees expressed that pork was not the cause, including officials in the DoN who, other things equal, might be eager to claim that pork was the case. [Ref. 18 and 25] However, other DoN officials, including some in NAVCOMPT, believe that the protection of pork projects still may have been an important factor in the APN FY 1988 controls for several programs.

(4) Increased public exposure for members of Congress. No evidence was found to support this hypothesis in the specific case of APN. In fact the Department of Defense Appropriations Act for 1988 was included in a 450 page Joint Resolution passed 83 days after the beginning of the fiscal year, three days before Christmas. The provisions in the APN account received little exposure in Congress, and much less exposure to the public.

(5) Increased size of congressional committee staffs. Increased size of congressional committee staffs has provided to committees the personnel resources necessary to more closely control and oversee the formulation and execution of the DoD budget. Increased size allows the staff to specialize, which, in turn, may promote competitiveness within the staff, competitiveness which often mirrors that within DoD. The influence of factions within the various staffs, as well and within DoD and DoN, appears to have been a factor in the 1988 Acts as each faction sought to protect items within its area of responsibility and expertise.

c. Executive accountability

(1) Refusal by high level DoD and DoN officials to negotiate or prioritize programs in the DoD budget request. Although this issue was raised by Congress as an explanation for increased control in the early years of the Reagan administration, it was not voiced by those interviewed as being a factor in the 1988 bills.

(2) Loss of congressional confidence in DoD and DoN leadership ability. Two recurring themes were noted by interviewees in this area: a leadership void in the DoN, and failure of the submitted annual budget request to recognize future budgetary realities in a realistic manner.

After the departure of Secretary Lehman there existed in some spheres of Congress the impression that there was a leadership void in the DoN and that the

void was being filled by various independent units of the organization; the most evidently powerful being the Office of the Comptroller of the Navy (NAVCOMPT). There was concern among congressional staff that NAVCOMPT was exerting "undue" influence over the procurement policies in the DoN, at the expense of procurement program sponsors and program managers. [Ref. 17] Statutory line items in the APN account were used in an attempt to rein in what was perceived as too much power being exercised by NAVCOMPT. The line item format for FY 1988 was initiated by a staff member on the HASC with the support and consent of some Navy sponsors of the aviation programs.[Ref. 18] This suggests that internal competition within the DoN may be a significant factor in explaining the increase in congressional budget control.

As depicted in Figure 6, the estimates for out year spending presented in the FY 1986-88 budget requests were consistently unrealistic. By 1985, from the view of Congress, it should have been clear that the increased spending in the out years for aircraft would not materialize, but the DoN estimates included in the budget request continued to reflect anticipated increased spending in the out years. Congressional members and staff judged that DoN leadership had failed to base the aircraft acquisition strategy on realistic budgetary expectations and, consequently, direct congressional intervention was needed.

(3) Failure of DoN to comply with the spirit and intent of report language. The DoN has the reputation among some staffers in Congress as a defiant service in terms of budget strategy. The fact that the DoN transferred 7% of the APN funds for budget year 1985 to other appropriations was viewed by some in Congress, both authorizers and appropriators, as further proof that the DoN was defying the spirit and intent of Congress, even though the transfers were performed in accordance with the procedures mutually agreed upon by Congress and the DoN.

[Ref. 17]

(4) Ineffective DoD and DoN budget and program execution. Frustration with individual program management was not mentioned as a factor in the increased control of APN. Rather, congressional frustration over the aviation program sponsor's inability to present what Authorization and Appropriations Committee staff viewed as reasonable aircraft acquisition strategy in light of congressionally defined economic realities, and with DoN budget priorities prompted the increase in control of the APN account.

d. Budget growth and control

(1) The significant size of the increment in the defense budget proposed by the President in the 1980's. This may have been a factor in the early years of the Reagan administration, but by the time the 1988 budget was being considered it was no longer a contributing factor. A new

factor, having to deal with cutback management, had become operative.

(2) Pressure to reduce the growing deficit. Public pressure to reduce the deficit and the threat of GRH sequestration forced difficult spending decisions. In the face of opposing opinions in DoN, Congress felt compelled to impose its will more forcefully. Hence, statutory line items were a means of creating budgetary control and enforcing spending discipline.

D. IMPACT OF THE METHOD OF INCREASED CONTROL

The change in the language of the APN account in the authorization and appropriation bills had both intended and unintended consequences. Further, the DoN developed, with the concurrence of the committees involved, methods of working around the controls. Finally, the controls were partially rescinded by Congress in the 1989 authorization and appropriation bills. However, a different set of restrictions were written into the FY 1989 Appropriations Act.

As intended for FY 1988, the language in the bills did temporarily hinder the ability of the DoN to move funds out of the 16 specific APN programs. The language did this in two ways.

First, the line item format subjected any movement of funds into or out of these accounts to the statutory limitations for transfers. Unless transfer authority has

been specifically granted by statute, no funds may be used for any purpose other than that provided in the appropriation bill without congressional approval. Section 8015 of the 1988 Appropriation Act provided the following transfer authority to the Secretary of Defense for the 1988 budget year.

Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$1,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military funds (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.[Ref. 24]

The line item format prevented moving funds without exercising this authority or getting specific congressional approval for each move. Also, many of the reprogrammings that could be made within the procurement accounts by the Army and Air Force without using OSD's transfer authority could not be made within the DoN's procurement accounts. Because of the addition of more line items to the DoN procurement accounts, while still appropriating the Army and Air Force procurement accounts as lump sums, the DoN would have had to use more than its "fair share" of OSD's transfer

authority to achieve the same flexibility and discretion in its budget execution. Second, and very importantly, NAVCOMPT interpreted the "only for" language as meaning that the SECDEF could not use transfer authority in the case of these 16 APN programs. [Ref. 23]

An ironic unintended impact was that the control language reduced the discretion of the program sponsor and program managers of the very programs that the language was designed to protect. The impact was felt first when the DoN distributed a \$250,000,000 general reduction in APN mandated by the 1988 Appropriations Act conference committee report [Ref. 26:p. 576]. Rather than having the discretion of spreading this general reduction over all programs in the APN account, the reduction had to be absorbed by programs that had not been specifically fenced by the "only for" language. The aircraft spares and repair parts budget activity was forced to absorb the bulk of the general reduction. Second, even within their own APN account the program sponsor and program managers were saddled with the increased transfer controls which hampered their response to emergent problems, such as structural failure of wings on operational E-2C aircraft. Rather than being able to handle this emergent problem with internal reprogrammings the DoN was forced to seek congressional approval to transfer funds. [Ref. 25]

However, most of these intended and unintended impacts did not materialize. In March 1988 the President submitted to Congress a supplemental appropriation request which included a request, originated by NAVCOMPT, that the specific line item format and "only for" language in the APN account have no force or effect. The requested relief was not provided in a supplemental appropriation bill. Rather, NAVCOMPT and the congressional committees involved reached a compromise agreement to allow the DoN to transfer up to \$10 million out of any of the 16 programs into other programs without congressional action. [Ref. 27] This was achieved through a liberal interpretation of Section 8096 of the appropriation bill which stated that

The Secretary of Defense shall submit a quarterly report of cumulative reprogrammings from any project or program in excess of an initial \$10,000,000 in total for procurement and an initial \$4,000,000 in total for research and development. The initial report shall cover the quarter ending March 31, 1988, and include funds in this and prior Acts. [Ref. 24]

This, in effect, allowed reductions totalling \$1,600,000,000 in the APN account without prior approval from Congress.

And, as noted, the National Defense Authorization and Department of Defense Appropriations Acts for 1989 partially rescinded the line item and "only for" provisions of the 1988 acts and provided lump sum appropriations for APN for budget year 1989. The 1989 Appropriations Act states that provisions of the 1988 Authorization and Appropriations Acts "which provide that funds are available in specific dollar

amounts only for specific programs, projects, or activities funded by the appropriation "Aircraft Procurement, Navy" shall have no force or effect which would limit the application of a proportionate share of the general reduction of \$250,000,000 allocated within the appropriation account against these specific programs, projects or activities." [Ref. 28:p. 46] Further, the 1989 Appropriations Act appropriated all funds for DoD procurement at the account level except SCN and WPN. However, the conference report reaffirmed and expanded the committees' control over reprogramming actions and warned that the "...Committees will not hesitate in the future to revert to appropriation by budget activity if this initiative [of appropriation by account] is abused by the Department." [Ref. 28:p. 35-36]

A significant impact of this congressional control of APN was confusion, frustration, and wasted energy within the DoN and to some extent OSD. The lessons learned from this experience could be applied to future DoD/Congress budgeting.

The pluralism in government intended by the framers of the Constitution was meant to prevent any one person or any one branch of government from becoming too strong or autonomous. This was meant to apply at the macro level of policy and budget decision making. It may not have been intended that this same frustrating pluralism be present at

all levels of government. For the DoD and DoN to gain sufficient consensus to chart a budgetary path and to establish general policy is difficult enough given the extensive nature of the mission and the exigencies of world change. Extending the pluralistic approach characteristic of congressional micromanagement to the most minute details of execution is suffocating and increases internal agency budget competitiveness in ways that likely impede operating efficiency and effectiveness. The basic institutional issue is to what extent Congress should attempt to broaden its control over budget formulation, execution and program management at the expense of executive authority and decision discretion.

VIII. CONCLUSION

This thesis investigated two major issues: the intent of Congress in applying increasingly restrictive language in authorization bills, appropriations bills and the accompanying committee reports; and the consequences of increasing congressional control for the ability of the DoN to effectively and efficiently manage its limited resources. It concentrated on the changes in language in the DoN procurement accounts in the Department of Defense appropriation and authorization acts for the period 1980-1988 and the Aircraft Procurement, Navy account for budget year 1988.

The thesis points to four sets of factors which contributed to the general increase in controls exerted by Congress over DoD during the period 1980 to 1988:

A. Partisan politics:

1. Within Congress;
2. Between Congress and the Executive.

B. Congressional budgetary politics and processes:

1. Reduced power of committee chairmen and increased relative power of committee members, subcommittee chairmen, subcommittee members, and non-committee members;
2. Power struggles between standing committees in both Houses;
3. Pork barrel political pressures;

4. Increased public exposure for members of Congress;

5. Increased size of congressional committee staffs.

C. Executive accountability:

1. Refusal by high level DoD and DoN officials to negotiate or prioritize programs in the DoD budget request;

2. Loss of congressional confidence in DoD and DoN leadership ability;

3. Failure of DoN to comply with the spirit and intent of report language;

4. Ineffective DoD and DoN budget and program execution.

D. Budget growth and control:

1. The significant size of the increment in the defense budget proposed by the President in the 1980's;

2. Pressure to reduce the growing deficit.

It was argued that the main reasons to explain why Congress chose to exercise greater control over the APN procurement account for FY 1988 were (i) failure of DoD and DoN to comply with the spirit and intent of report language, (ii) the requirement to enforce the difficult spending decisions dictated by public pressure to reduce the deficit and the threat of GRH sequestration, and (iii) the view of congressional staff that NAVCOMPT was exerting undue influence over the procurement policies in the DoN, at the

expense of procurement program sponsors and program managers.

The thesis concluded that (i) the purpose of increased oversight and control is to ensure that the intent of Congress is carried out by the executive branch, (ii) the impact of congressional oversight and control, given the detail to which this oversight and control is exercised, appears to be counterproductive to the achievement of the ends desired by Congress because the burden of excessive congressional management often impedes acquisition and budget execution efficiency and effectiveness, and (iii) the full impact of such negative consequences did not actually occur in the specific case of the Aircraft Procurement, Navy, in fiscal year 1988 only because Navy executives negotiated with the committees with the result that Congress partially rescinded the controls.

Although the controls for the APN procurement account were partially rescinded, the line item controls still exist for budget year 1988, and the Appropriations Committees have reaffirmed and enhanced their reprogramming controls. The APN appropriation is a three year appropriation and this thesis was written during the first year of execution. Consequently, further research on the impact of the controls is necessary and should concentrate on the budget year 1988 APN account to assess the overall impact of these controls on DoN's ability to effectively and efficiently execute the

APN procurement budget over the three year life of the appropriation. Research to document the negative impact of these controls should be of some priority to the DoN.

It is important, also, to examine the potential impact of continued congressional micromanagement on the ability of DoD and DoN officials to exercise effective leadership over their departments. Congressional micromanagement, coupled with congressional encouragement of end runs around the defense and service secretaries and service chiefs, erodes their authority and effectiveness. This erosion of authority leads to increased confusion and mismanagement within the departments and further pressure for congressional intervention. How can this self-perpetuating cycle be reversed to the benefit of both executive and legislative interests?

Perhaps further research should accept the permanence of the forces of partisan politics and congressional budgetary politics and processes as a given, and concentrate on the interaction of DoN with the authorization and appropriation committees, particularly on the causes of distrust and loss of confidence. Even if distrust and loss of confidence are unwarranted, the causes for these perceptions warrant investigation. Is the DoN justifying one budget and executing another? Is the FYDP being used simply as a budgeting ploy or is it the central document produced by programming to guide budgeting? Are program decisions made

by the proper organizations within DoN? Is DoD distrust of Congress impeding effective, constructive dialogue between DoN leadership and Congressional committees? A strategy designed to restore DoN leadership authority and cause a commensurate reduction of congressional micromanagement must be developed.

APPENDIX A

Interview Strategy and Rationale for Choosing Subjects

STRATEGY

Introduction:

Students at the Naval Postgraduate School

Department of Administrative Sciences

Masters Degree, Financial Management Curriculum

Working with Professor L. R. Jones on public policy analysis in the area of budget formulation and execution.

In particular the role of Congress in controlling DOD procurement.

Confirm interviewee's name, position, area of responsibility, some background, and time available for the interview.

Ask if we may use a tape recorder to help take notes.

Emphasize the off-the-record and confidential nature of the interview.

Questions:

How Does Congress perform its oversight and control responsibilities over DOD acquisitions or procurement?

From your experience do think that there has been any change in the way that Congress performs its oversight and control responsibilities over DOD acquisitions or procurement over the past decade?

Has the degree of oversight or control by Congress over the DON budget changed?

If so, in what direction?

In what ways have these changes occurred?

What types of changes have occurred?

Authorizations?

Appropriations?

Committee reports?

Oversight?

Who initiated these changes?

Were there specific problems that prompted these changes?

What were the desired effects of these changes?

Were the desired effects achieved?

Were there any unintended or undesirable consequences?

Were these changes beneficial or counterproductive for the DON?

In what ways do you expect the methods and degree of Congressional control and oversight to change in the future?

What factors will influence this change?

Conclusion:

Thank you for your time and cooperation.

Is there anyone else that you recommend we talk to about these issues?

RATIONALE

To ensure that various parties were fairly represented, interview subjects were chosen from the staffs of the following major participants in the budgeting and execution process for DoD procurement:

Appropriations and Authorization Committees	9
Office of the Comptroller of the Navy	9
Office of the Secretary of Defense, Comptroller	4
Office of Management and Budget	2
Congressional Budget Office	3
Naval Air Systems Command	2
Assistant Chief of Naval Operations (Air Warfare)	4
Office of Legislative Affairs, Navy	1

Those chosen were responsible for DoD or DoN procurement issues. The bulk of the interviews were conducted in person with the agreement that the interviewees would not be quoted by name.

APPENDIX B

Excerpts from Letters Written by William H. Taft, IV

The following are excerpts from letters written by William H. Taft, IV, Deputy Secretary of Defense, to the chairmen of the Armed Services and Appropriations Committees of the House and Senate.

Reprogramming Restrictions: The Senate included a new provision (Section 8090) that not more than \$10 million in total for procurement and \$4 million in total for RDT&E may be cumulatively reprogrammed from any project or program without prior notification, 30 days in advance, to the Defense Subcommittees of the Committees on Appropriations. The House did not include a similar provision. Implementation of this restriction will create a substantial administrative burden on both the Congress and the Department. For example, if this new language had been in effect during FY 1987, roughly an additional 215 reprogramming actions would have been processed through the congressional committees. This includes 75 actions that would be required when project level versus program element level is applied to RDT&E. Also requiring reporting at the project level would increase line items in the Base for Reprogramming Actions report (DD 1414) for RDT&E accounts from approximately 750 to 1900. Reprogramming actions currently not requiring congressional approval are identified in a semiannual Report of Programs (DD 1416). Some decreases made to programs that are identified in the DD 1416 are due solely to allocating, by line item, undistributed general reductions made by the Congress. Enactment of this general provision would hamper efficient program management and prevent quick response to ever changing program requirements thereby causing program delays and increased costs. I strongly support the House and recommend deletion of this provision. [Ref. 16: p.9]

Sub-divided Appropriations: The House bill provides for sub-divided appropriations at the budget activity and other specified levels in several of the procurement accounts. The Senate bill provides lump sum appropriations. The House language would result in numerous formal reprogramming actions, impede timely

program execution, generate increased workload for DoD and Congressional staffs, and impair the Department's ability to respond to crisis situations. The Department strongly supports the Senate account structure. [Ref. 16: Encl. 1, p. 2]

Line Item Authorization: The House proposes that appropriations for Aircraft Procurement, Navy; Weapons Procurement, Navy; and Shipbuilding and Conversion, Navy be authorized by line item. Appropriations for Other Procurement, Army; Other Procurement, Navy; and Other Procurement, Air Force are proposed for authorization by budget activity or group of budget activities. The Senate recommends procurement authorization in lump sum for each appropriation, as requested by the Department. The House proposal would provide only a marginal increase in program oversight for the Congress, while substantially limiting the Department's flexibility to develop, manage, and execute acquisition initiatives and contracts in an effective and efficient manner. The Department requires the flexibility to react to emergent, time-sensitive unfunded requirements, accommodate program repricing, and conduct the procurement process in an efficient, economical manner. Reprogrammings currently are provided to all four committees when a procurement line item increases by over \$10 million, and new action starts are constrained at an even lower funding level. The House action would further limit the small amount of reprogramming and financing flexibilities that are afforded the Department, thus resulting in numerous, additional reprogramming actions for minor changes. I urge support for the Senate position to authorize these appropriations in lump sum amounts. [Ref. 29:p. 18]

Limitation on Availability of Funds: The House proposed a provision (Section 824), which prohibits obligation or expenditure, for any purpose, of any amount appropriated for any program, project, or activity (PPA) that is in excess of the amount needed to carry out that PPA. The Senate did not propose similar language. The House proposal to eliminate the Department's reprogramming authority between PPAs will seriously impact the Department's ability to manage its financial resources effectively, and ultimately could jeopardize national security. Procurement quantities will have to be reduced when costs increase, even though savings may be available in other PPAs that might otherwise have been reprogrammed to protect program quantities in such instances. The House proposal will eliminate the Department's capability to respond to crisis situations, changes in defense priorities,

changes in the threat, or to fluctuations in the cost of DoD requirements. The Department's acquisition process, which the Congress has sought to streamline and make more efficient, will be unable to respond to even minor cost fluctuations without resorting to program reductions. The Department could find itself unable to accommodate cost growth on executed contracts and be unable to complete contractual payments. I urge the conferees to delete this provision.[Ref. 29]

APPENDIX C

Excerpts from Applicable Acts

A. EXCERPT FROM THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989.

TITLE I--PROCUREMENT PART A--FUNDING AUTHORIZATIONS

SEC.102.NAVY AND MARINE CORPS

(a) AIRCRAFT.

(1) Funds are hereby authorized to be appropriated for procurement of aircraft for the Navy as follows:

(A) \$9,604,987,000 (\$8,610,118,000) for fiscal year 1988.

(B) \$5,591,525,000 for fiscal year 1989.

(2) Of the funds appropriated or otherwise made available for procurement of aircraft for the Navy for fiscal year 1988:

(A) \$5,387,322,000 (\$4,956,739,000) is available only for combat aircraft programs as follows:

For the A-6E program, \$376,610,000 (\$0).

For the EA-6B program, \$521,571,000.

For the F-14A/D program, \$873,848,000.

For the FA-18 program, \$2,580,222,000.

For the SH-60B program, \$197,614,000

(\$143,641,000).

For the SH-60F program, \$329,961,000.

For the long-range air ASW capable aircraft program, \$80,200,000.

For the E-2C program, \$427,296,000.

(B) \$833,193,000 (\$800,493,000) is available only for modification of aircraft programs as follows:

For the A-6 series, \$219,651,000.

For the H-2 series, \$45,108,000.

For the P-3 series, \$172,865,000.

For the S-3 series, \$142,522,000.

For the ES-3 series, \$115,200,000.

For the E-2 series, \$71,139,000

(\$38,439,000).

For common electronic countermeasures (ECM) equipment, \$66,708,000. [Ref. 30]

B. EXCERPT FROM THE DEPARTMENT OF DEFENSE APPROPRIATIONS

ACT, 1988

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; \$9,522,299,000, to remain available for obligation until September 30, 1990: Provided, That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows:

A-6E Program, \$0;

EA-6B Program, \$479,413,000;

F-14A/D Program, \$734,289,000;

F/A-18 Program, \$2,388,710,000;

SH-60B Program, \$125,000,000;

SH-60F Program, \$294,346,000;

Long Range ASW Capable Aircraft Program, \$0;

E-2C Program, \$380,195,000;

A-6E Modification Series, \$219,478,000;

H-53 Modification Series, \$22,737,000;

H-2 Modification Series, \$55,000,000;

P-3 Modification Series, \$136,865,000;

S-3 Modification Series, \$74,722,000;

ES-3 Modification Series, \$80,000,000;

E-2 Modification Series, \$39,639,000;

Common ECM equipment, \$16,708,000:

Provided further, That notwithstanding section 111(e) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) \$609,917,000 is available for the procurement of 12 A-6F aircraft. [Ref. 24]

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